

Memo

To: **Montana Wheat & Barley Committee**

From: Terry Whiteside

Date: May 8, 2006

Re: **Transportation Report**



STB schedules hearing May 11, 2006 on Fuel Surcharges

In a decision on April 25, 2006 on Ex Parte No. 661 by the Surface Transportation Board, the board announced it will hold a public hearing to provide interested persons an opportunity to express their views on fuel surcharges collected by railroads to be held on May 11, 2006 @ 9:00am. The hearing will be held at the Board's Headquarters in Washington DC. and has a full schedule of appearances.

The Montana Wheat & Barley Committee, the Colorado Wheat Administrative Committee, the Idaho Barley Commission, the Idaho Wheat Commission, the Nebraska Wheat Board, the Oklahoma Wheat Commission, the South Dakota Wheat Commission, the Texas Wheat Producers Board, the Washington Wheat Commission, and the National Association of Wheat Growers, aka the Wheat And Barley Commissions will be represented at the hearing by Terry Whiteside. Additionally shippers represented will include the Honorable Brian Schweitzer, Governor of The State of Montana, The North Dakota Grain Dealers Association, The National Grain and Feed Association, USDA, and many others.

NGFA comments on grain industry's struggles with rail service

The House Transportation and Infrastructure Committee's Railroad Subcommittee, chaired by U S Rep Steven La Tourette, R _Ohio, held a hearing on April 26, 2006 on rail capacity. The National Grain and Feed Association told Congress that U S Agriculture is engaged in a chronic struggle to obtain predictable rail service. For grain and grain product shippers, the NGFA said, it has become increasingly uncertain to know when rail equipment will arrive for loading, when it will be furnished with locomotive power and when the shipment will reach destination. The NGFA noted that fuel surcharges imposed by some carriers are so "extreme" that the surcharge itself exceeds the total cost of fuel for the average shipment. UPS also testified at the hearing.

Electric Utilities press for action on railroad costs

The chief executives of the Edison Electric Institute, the American Public Power Association and the National Rural Electric Cooperative Association (NRECA) signed a May 1 letter to the Federal Energy Regulatory

Commission (FERC) that called coal delivery problems "a serious challenge" to the ability of utilities to meet electricity demand.

The trade groups hope to capitalize on the new powers given to FERC by the 2005 energy act, said Patrick Lavigne, a spokesman for the NRECA. The act for the first time gave FERC the ability to set and enforce reliability standards. A group established by the utilities themselves had previously set those standards.

Rest assured the railroads will come out swinging on this, blaming all of the utility industries problems on everything except the railroads.

Jurisdiction over the railroads is held by the Surface Transportation Board, which can regulate rail prices if one line is dominating the market. The board, the subject of widespread criticism from shippers who feel it sides too often with railroads, The Board has scheduled a hearing (see above) on fuel surcharges.

Lavigne, of the NRECA, said the issue has taken on increased importance in the past year. Some rural utilities are down to a three-day coal supply, and 20 percent of orders for deliveries in the past year went unfulfilled.

Lavigne said the issue of rail service is among a five-point list of concerns member-company executives are taking with them to hundreds of Hill office visits this week in the association's annual "fly-in" day.

Rail Customers are supporting three bills, **S. 919**, introduced by Senator Conrad Burns (R-Mont.), and co sponsored by Sen Max Baucus [MT], Sen Norm Coleman [MN], Sen Larry Craig [ID], Sen Mike Crapo [ID], Sen Byron Dorgan [ND], Sen Tim Johnson [SD], Sen John D Rockefeller [WV], Sen Craig Thomas [WY], Sen John Thune [SD], Sen David Vitter [LA], Sen Mark Dayton [MN] and its companion in the House, **H.R. 2047** Sponsored by Rep Richard Baker [LA-6] and cosponsored by Rep Rodney Alexander [LA-5], Rep Marion Berry [AR-1], Rep Dan Boren [OK-2], Rep Charles Boustany [LA-7], Rep Barbara Cubin [WY], Rep Jo Ann Davis [VA-1], Rep Trent Franks [AZ-2], Rep Charles Gonzalez [TX-20], Rep Raul Grijalva, Raul M [AZ-7], Rep Stephanie Herseth [SD], Rep Darlene Hooley [OR-5], Rep William Jefferson [LA-2], Rep Bobby Jindal [LA-1], Rep Ron Kind [WI-3], Rep Ron Lewis [KY-2], Rep Charlie Melancon [LA-3], Rep Marilyn Musgrave [CO-4], Rep Grace Napolitano [CA-38], Rep James Oberstar [MN-8], Rep Solomon Ortiz [TX-27], Rep C.L. (Butch) Otter [ID-1], Rep Major Owens [NY-11], Rep Ed Pastor [AZ-4], Rep Collin Peterson [MN-7], Rep Earl Pomeroy [ND], Rep Dennis Rehberg [MT], Rep Rick Renzi [AZ-1], Rep John Shimkus [IL-19], Rep Michael Simpson [ID-2], Rep Bart Stupak [MI-1], Rep Gene Taylor [MS-4] and Rep Mark Udall [CO-2]. They are intended to make it easier for shippers to challenge the rates charged by railroads. Also, there is a bill introduced by Rep. Mark Green (R-Wis.) that would remove anti-trust exemptions for the rail industry.

BNSF appoints ombudsman to "deal with customer concerns"

Apparently a squeaking wheel gets an ombudsman from the BNSF. Now both Montana and North Dakota have their own ombudsman according to the BNSF. Effective May 15, 2006 Donald W Karls will fill his newly appointed position of ombudsman, to "deal with customer concerns in Montana". Karls will be based in Great Falls Montana and will respond to the needs of grain producers, processors and shippers in Montana. A similar position was filled to respond to the needs in North Dakota, by Jonathan Long in June of 2004 and is based in Fargo North Dakota.

According to many rail customers who have had some experience with these ombudsman, "don't expect miracles, after all, they still work for the market dominant rail carrier of the region."

But hope always springs eternal this time of year...